

REMODEL CONSTRUCTION CONTRACT

THIS CONTRACT is entered into between the Northern Arizona Consolidated Fire District #1 (“**NACFD**”), a body politic and corporate of the State of Arizona, and _____ (“**Contractor**”).

WITNESSETH

WHEREAS, NACFD requires the services of a contractor qualified to perform the contractor functions for the remodel 2600 Northern Avenue, Kingman, Arizona ("Project", more fully defined below), and

WHEREAS, Contractor was determined to be the most qualified applicant based on NACFD's evaluation of qualifications submitted in response to the request for proposal **RFP-2019-001**, and

WHEREAS, the NACFD Governing Board authorized NACFD personnel at its regularly scheduled meeting on **May 16, 2019**, to enter into negotiations with Contractor for construction of the Project,

NOW, THEREFORE, the parties hereto agree to the following:

AGREEMENT

ARTICLE 1. CONTRACT TERM

1.1 This Contract shall commence upon full execution of this Contract. Substantial Completion shall be achieved on or before _____, 20____, unless this Contract is sooner terminated or further extended pursuant to the provisions of this Contract. Final Completion shall be achieved within thirty (30) days after Substantial Completion.

ARTICLE 2. SCOPE

2.1 The Contractor is responsible for construction of a complete Project, including all construction, including materials, equipment, labor for installation, material testing, training, warranty and as-built drawing.

2.2 Contractor shall perform all construction administration services and construction of the Project in accordance with this Contract and the Project Schedule outlined in attached **Exhibit “B”** and the scope of work outlined in attached **Exhibit “A”**. Contractor shall perform all work in accordance the terms of the Contract and to the best of Contractor's ability. Contractor shall employ suitably trained and skilled professional personnel to perform all services under this Contract.

2.3 NACFD Responsibilities

2.3.1 NACFD shall, throughout the performance of the work, cooperate with Contractor and perform its responsibilities, obligations and services in a timely manner to facilitate Contractor's timely and efficient performance of the work and so as not to delay or interfere with Contractor's performance of its obligations under the Contract.

2.3.2 NACFD shall provide timely reviews, approvals of other documents consistent with the turnaround times set forth in the project schedule.

2.3.3 NACFD shall provide, to the extent available, surveys describing the property, boundaries, topography and reference points for use during construction, including existing service and utility lines; a legal description of the site; to the extent available, as-built and record drawings of any existing structure at the site; environmental studies, reports and assessments describing the environmental conditions, including hazardous materials, in existence at the site; and geotechnical studies describing subsurface conditions.

ARTICLE 3. SERVICES

3.1 General Project Administration Services

3.1.1 Contractor will provide and manage all specialty consultant's services and administer the Project. Contractor will consult with NACFD staff, research applicable design criteria, coordinate and attend meetings, and communicate with members of the Project Team.

3.1.2. Contractor will incorporate the use of best value construction methods and alternate materials during the building process. Contractor shall focus on budget, aesthetics, constructability, operation and life cycle costs and compatibility with the surrounding environment.

3.1.3. Contractor shall, within fifteen (15) days after full execution of the Contract, submit a project schedule showing the projected construction schedule.

3.1.4 Contractor will utilize a project management system approved by NACFD in managing and reporting the status of this Project. At a minimum, Contractor will use this Project Management system to track Project Schedule, payment applications, requests for information, change order requests, change orders and project status. System reports will be used as the basis for reporting weekly progress status.

3.1.5 Contractor shall provide NACFD with a weekly status report detailing the progress of the Project, including whether (i) the building is proceeding according to schedule; (ii) discrepancies, conflicts or ambiguities exist in the design or contract documents that require resolution; (iii) health and safety issues exist in connection with the Project; and (iv) other items require resolution so as not to jeopardize Contractor's ability to complete the Project for the Contract Amount and within the Project Schedule. Contractor shall deliver such weekly status reports on each Monday before noon until the Project is complete.

3.1.6 Contractor will provide to NACFD, prior to the start date, a list of all subcontractors and suppliers to be used by the Contractor. All subcontractors and suppliers solicited will be subject to NACFD approval.

3.1.7 Correction and updating of the schedule will be done as often as deemed necessary by NACFD, but at least weekly.

3.1.8 For purposes of determining time extensions resulting from additional work ordered by NACFD, adverse weather or other delays, all float or slack time in the Construction Progress Schedule shall be owned and controlled by NACFD. NACFD shall allow use of such float or slack time by the Contractor as long as such allocation of float or slack time does not adversely affect the Completion Date of the Project. No additional time shall be allowed for claims for delay, whether or not caused by, or the fault of NACFD, if such delay is less than the available float or slack time available for the particular task.

3.1.9 The Contractor shall prepare and submit for NACFD's information, review and approval, for the duration of the Work, a Daily Log in a form acceptable to NACFD. The Daily Log shall be completed daily and submitted to NACFD on a weekly basis as a statement and review of the progress of the Work.

3.1.10 The Contractor shall furnish sufficient labor force, plant, and equipment to ensure the prosecution of the Work in accordance with the approved schedule so as to complete the Project within the Contract Time. If the Contractor's prosecution of the Work falls behind the project schedule, the Contractor shall take such steps as may be necessary to regain compliance with the project schedule including additional labor or services or work such overtime as may be necessary to bring its operations up to the project schedule. Failure to maintain the project schedule or to take the above steps to regain the agreed project schedule after written notice from NACFD and reasonable opportunity to cure shall constitute default under this Agreement.

3.1.11 Contractor shall provide NACFD with a weekly status report with each Project Schedule detailing the progress of the construction, including whether (i) the work is proceeding according to schedule; (ii) discrepancies, conflicts or ambiguities exist in the design or construction documents that require resolution; and (iii) other items require resolution so as not to jeopardize Contractor's ability to complete the Project for the Contract Amount and within the Contract Time(s). Contractor shall deliver such weekly status reports on each Monday before noon until the Project is complete.

3.1.12 Upon NACFD's request, the Contractor shall participate in the review of the Contractor's Project Schedule submissions. NACFD may request the participation of Subconsultants and/or Subcontractors in these reviews, as determined necessary the by NACFD.

3.2 Preparation for Building

3.2.1 The Contractor shall avoid use of construction materials known to be hazardous or potentially hazardous, including asbestos, lead or any derivative thereof, unless specifically approved in writing by NACFD.

3.2.2 The Contractor shall coordinate with private, public and NACFD utilities regarding standard utility issues.

3.2.3 The Contractor shall be responsible for scheduling, submitting, obtaining approval and retrieving of all required Construction Documents to the various required reviewing agencies.

3.2.4 NACFD shall obtain all necessary permits, approvals and licenses required for the prosecution of the work by any government or quasi-government entity having jurisdiction over the Project.

3.2.5 NACFD and Contractor shall share copies of these permits and notices, respectively obtained, with each other. Contractor may deliver copies of any documents to NACFD's representative, as defined in Paragraph 10.12 ("NACFD's Representative"), prior to starting the permitted activity.

3.2.6 Contractor is responsible for the cost of all permits and review fees.

ARTICLE 4. COMPLIANCE WITH LAWS

4.1 The Contractor shall comply with all federal, state and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Contract. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Contract, and any disputes hereunder. Any action relating to this Contract shall be brought in a court of the State of Arizona and Mohave County. Any changes in the governing laws, rules, and regulations, other than those adopted by NACFD, during the term of this Contract shall apply.

ARTICLE 5. INDEPENDENT CONTRACTOR

5.1 The status of the Contractor shall be that of an independent contractor. Neither Contractor, nor Contractor's officers, agents, or employees, shall be considered an employee of NACFD or be entitled to receive any employment-related fringe benefits. Contractor shall be responsible for payment of all Federal, State and local taxes associated with the compensation received pursuant to this Contract, and shall indemnify and hold NACFD harmless from any and all liability which NACFD may incur because of Contractor's failure to pay such taxes.

ARTICLE 6. CONSULTANTS AND SUBCONTRACTORS

6.1 Contractor will be fully responsible for all acts and omissions of all engineers, subcontractors and consultants employed by the Contractor, and of persons directly or indirectly employed by any subcontractor or consultant and of persons for whose acts any of them may be liable to the same extent that Contractor is responsible for the acts and omissions of persons directly employed by it. Nothing in this Contract shall create any obligation on the part of NACFD to pay any money due any of Contractor's consultants or subcontractors, except as may be required by law.

ARTICLE 7. CONTRACT AMOUNT

7.1 Contract Amount.

7.1.1 The Contract Amount shall be a Lump Sum Fixed Price. The Contract Amount is _____ Dollars (\$_____). The Contract shall include all costs of any nature necessary to the performance of the Work required hereunder.

7.2 Liquidated Damages.

7.2.1 Liquidated damages as used and defined in Article 10 herein will be One Hundred Dollars (\$100.00) per calendar day, for each day the Project is not substantially complete after expiration of the Contract Time for Substantial Completion and \$_____ Dollars per calendar day for each day the Project is not finally complete after the expiration of the Contract Time for Final Completion.

ARTICLE 8. GENERAL CONDITIONS

8.1 NACFD and Contractor.

8.1.1 NACFD, the Contractor, and the engineer (if any) are those herein defined in this Agreement. They are treated throughout the Contract Documents as though each were of the singular number. Any engineer or subcontractor is employed by the Contractor is included in the Contract Amount.

8.2 Modifications.

8.2.1 A Modification is any of the following:

- . 1 A written amendment to this Contract signed by all parties;
- .2 A change order properly signed by the parties pursuant to Paragraph 18.1; or
- .3 A Field Order for a minor change in the Work issued by NACFD’s Representative or engineer.

8.3 Contract and General Conditions.

8.3.1 The contract and general conditions for construction of the Project consist of this Contract and the Bonds, Insurance Certificates and Plans and Specifications (“Contract Documents”). This Contract represents the entire and integrated agreement between the parties hereto for design and construction of the Project and supersedes all prior negotiations, representations, or agreements, either written or oral, including the request for proposal (“RFP”) documents pertaining to the Project.

8.4 Work.

8.4.1 The term "Work" includes, without limitation, furnishing all labor, administrative services and supervision necessary to produce the design and construction required by the Contract and furnishing and installing all materials and equipment incorporated, or to be incorporated in such construction to complete the Project.

8.5 Project.

8.5.1 The Project refers to all phases of the construction, as depicted and described by the Contract Documents, through Final Completion and warranty.

8.6 Execution, Correlation, Intention and Interruption of the Contract Documents.

8.6.1 By executing the Contract, the Contractor represents and warrants that it has examined closely the site, has familiarized itself with the local conditions under which the Work is to be performed, has correlated all of its observations with the provisions and requirements of the Contract Documents. Where discrepancies in quantities, materials, sizes or other conditions exist between the Plans and Specifications, the Contractor shall accomplish the Work required to carry out the intent of the Contract Documents; however, the Contractor shall not be responsible for discrepancies in pre-existing site conditions that could not be reasonably discovered or anticipated. Should concealed conditions encountered below the surface of the ground or concealed within existing construction be at variance with the conditions indicated by the Contract Documents or differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract then the Contract Amount and/or Contract Time shall be equitably adjusted by change order upon claim by Contractor. Contractor shall not be entitled to any such adjustment if the condition should have been discovered by the Contractor during the design phase utilizing investigative techniques normally employed in the design of a project of this nature and scope.

8.6.2 The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. The intention of the Contract Documents is to include, without limitation, all labor, materials, equipment and other items necessary for the proper execution and completion of the Work. Words which have well known technical or trade meanings are used herein in accordance with such recognized meanings.

8.7 Copies Furnished and Ownership.

8.7.1. All Drawings, Specifications and other data, and copies thereof, shall remain the property of NACFD. They are not to be used on any other project and, with the exception of one contract set for each party to the Contract, are to be returned to NACFD upon request at the completion of the Work.

8.7.2 It shall be the responsibility of the Contractor to insure that each Subcontractor and materialman has a current set of Drawings, Specifications and Addenda, if any, as required for proper execution of their respective portions of the Work.

8.8 Bonds.

8.8.1 In addition to any other bond requirements in this Contract, the Contractor shall provide Payment and Performance Bonds (“Bonds”) for not less than one hundred percent (100%) of the costs of the construction phase of the Project. Copies of the Bonds shall be attached to and become a part of this Contract upon acquisition of the Bonds by Contractor and prior to commencement of any work on the Project. The Bonds shall be issued by a surety authorized to do business in the State of Arizona who is acceptable to NACFD, and shall provide that Northern Arizona Consolidated Fire District #1 is a named beneficiary.

ARTICLE 9. ENGINEER

9.1 Definition.

9.1.1 If an engineer is used, the engineer is the person or organization employed by NACFD.

9.2 Construction Phase Services.

9.2.1 NACFD’s Representative, or engineer or architect will make visits to the site to become familiar with the progress and quality of the Work and to determine if the Work is proceeding in accordance with the Contract Documents. These visits shall be of the frequency necessary to apprise NACFD of the progress and quality of the Work.

9.2.2 NACFD’s Representative, in consultation with the engineer or architect, will promptly render such interpretations as either may deem necessary to assist the Contractor in the proper execution and progress of the Work. The interpretations of NACFD’s Representative shall be consistent with the intent of the Contract Documents. In its capacity as interpreter, it will exercise its best efforts to insure faithful performance by the Contractor.

9.2.3 NACFD shall have authority to reject Work which does not conform to the Contract Documents. Whenever, in the reasonable opinion of NACFD’s Representative, either considers it necessary or advisable to insure the proper implementation of the intent of the Contract Documents, either will recommend to NACFD and the Contractor to stop the Work or any portion thereof, or to require special inspection or testing of the Work as provided in Paragraph 13.5 whether or not such Work be then fabricated, installed or completed.

9.2.4 NACFD’s Representative will have authority to order minor changes in the Work not involving extra cost or an extension of the Contract Time provided they are not inconsistent with the Contract Documents as provided in Subparagraph 18.3.1.

ARTICLE 10. CONTRACTOR

10.1 Adequacy of Contract Documents.

10.1.1 The Contractor shall verify all dimensions shown and check all measurements in connection with any present building or buildings, levels of grades, walks, driveways, or other existing conditions, before executing any work.

10.1.2 The Contractor agrees to comply fully with all applicable federal, state and local laws, regulations, codes and standards. The Contractor agrees to indemnify and hold harmless NACFD from all claims of whatever nature involving failure of the Contractor, its consultants, or any of its Subcontractors to comply with any federal, state or local law, regulation, code or ordinance in connection with this Project. The Contractor shall comply with all regulatory requirements pertaining to storm water and dust control and shall create and implement appropriate plans for compliance with storm water and dust control regulations, including submission of plans and obtaining permits and approvals of regulatory agencies having jurisdiction.

10.2 Supervision and Construction Procedures.

10.2.1 The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract.

10.2.2 The Contractor shall hold weekly meetings with Subcontractors to monitor the progress of the Work. A report of the results of each such meeting shall be furnished to NACFD within 48 hours. The Contractor shall inform NACFD at least twenty-four (24) hours in advance of the time for each meeting.

10.3 Labor and Materials.

10.3.1 Unless otherwise specifically noted, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment, machinery, water, heat, utilities, waste and refuse disposal, transportation and any other facilities and services necessary for the proper execution and completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

10.3.2. Any work necessary to be performed after regular working hours, on Sundays, or legal holidays, shall be performed without additional expense to NACFD.

10.3.3 The Contractor shall at all times enforce strict discipline and good order among its employees and shall not employ on the Work any unfit person or anyone not skilled in the task assigned to him. When requested in writing by NACFD, the Contractor shall remove from the Project any person who commits trespass or is, in the opinion of NACFD, disorderly, dangerous, insubordinate, incompetent, or otherwise objectionable. The Contractor shall hold NACFD harmless from damages or claims for compensation that may occur in the enforcement of this requirement.

10.4 Warranty.

10.4.1 The Contractor warrants to NACFD that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. Faults or defects are considered to be any aspect of the Work that is found not to be in conformance with the Contract Documents. All Work not so conforming to these standards may be considered defective. If

required by the engineer or NACFD, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

10.4.2 The warranty provided in this Paragraph 10.4 shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract.

10.5 Taxes.

10.5.1 The Contractor shall pay all sales, consumer, use, transaction privilege and other taxes required by law arising out of construction or other business activities of the Contractor in connection with the performance of this Contract. If the Contractor's principal place of business is not in Arizona, Contractor shall post a bond for taxes in compliance with A.R.S. § 42-1305.02 and furnish evidence of such bond to NACFD prior to submitting any application for payment hereunder.

10.6 Permits, Fees and Notices.

10.6.1 All storm water protection, environmental, grading, right-of-way and other permits required by the authorities having jurisdiction will be paid for by the Contractor. All temporary utilities for the Project and for Contractor's office shall be provided and paid for by Contractor.

10.6.2 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the Work. If the Contractor observes that any of the Contract Documents are at variance therewith in any respect, it shall promptly notify NACFD in writing and make appropriate and necessary corrections. If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations, it shall assume full responsibility therefor and shall bear all costs attributable thereto, including any reasonable attorneys' fees incurred by NACFD in connection therewith.

10.7 Key Personnel.

10.7.1 The Contractor shall employ a competent Project Superintendent or Manager, or necessary assistants who shall be in attendance at the Project site during the progress of the Work. The Engineer Project Manager or Project Superintendent shall be satisfactory to NACFD and shall not be changed except with the prior written consent of NACFD.

10.7.2 The Project Manager shall represent the Contractor, and all communications given to the Project Manager or Superintendent shall be as binding as if given to the Contractor. Important communications will be confirmed in writing. Other communications will be so confirmed on written request in each case.

10.7.3 The Contractor agrees to assign the following individuals to the Project:

a) _____

b) _____

c)

The individuals may not be removed from the Project without NACFD's consent so long as they remain in the employ of the Contractor or a related entity.

10.8 Drawings and Specification at the Site.

10.8.1 The Contractor shall maintain at the site for NACFD one (1) copy of all Drawings, Specifications, approved Shop Drawings, change orders, other Modifications, and manufacturers' printed specifications and recommendations, in good order and marked carefully and accurately to record all changes made during construction which shall be available to NACFD at all times. Upon completion of the Project, a clean set of Project Record Drawings ("Record Drawings") shall be delivered to NACFD.

10.9 Shop Drawings, Product Data and Samples.

10.9.1 Shop Drawings and Product Data are drawings, diagrams, illustrations, schedules, performance charts, brochures, mix designs and other data which are prepared or supplied by the Contractor or any Subcontractor, and which illustrate or describe some portion of the Work.

10.9.2 Samples are physical examples furnished by the Contractor to illustrate materials, equipment or workmanship, and to establish standards by which the Work will be judged.

10.9.3 At the time of submission the Contractor shall inform NACFD in writing of any deviation in the Shop Drawings, Product Data or Samples from the requirements of the Contract Documents.

10.9.4 By reviewing and submitting Shop Drawings, Product Data, Mix Designs and Samples, the Contractor thereby represents that it has determined and verified all field measurements, field construction criteria, materials, catalog numbers and similar data, or will do so, and that it has checked and coordinated all Shop Drawings, Product Data, Mix Designs and Samples with the requirements of the Work and of the Contract Documents.

10.9.5 NACFD's review of Shop Drawings, Product Data, Mix Designs or Samples shall not relieve the Contractor of responsibility for any deviation from the requirements of the Contract Documents unless the Contractor has informed NACFD in writing of such deviation at the time of submission and NACFD has given written approval to the specific deviation.

10.9.6 NACFD shall be responsible for handling of any discovered hazardous materials on the site. If the Contractor discovers, during the prosecution of the Work, the presence of hazardous materials which must be removed or otherwise disturbed to complete the Work, the Contractor shall immediately notify NACFD in writing of such discovery, which notice shall specify the location of hazardous materials so discovered, and the nature of the interference with the Work resulting from the presence of the hazardous materials. The Contractor shall not be required to proceed with any portion of the Work that would require the removal or other disturbance of hazardous materials until NACFD has caused the removal of the hazardous materials or otherwise eliminated the risk of hazardous materials exposure during completion of the Work.

10.10 Cutting and Patching of Work.

10.10.1 The Contractor shall accurately and carefully do all cutting, fitting, or patching of its Work that may be required to make its several parts fit together properly, and shall not endanger any Work, either new or existing, by cutting, excavating or otherwise altering such Work or any part of it.

10.10.2 All costs of cutting and repairs necessitated by fault or negligence of the Contractor or Subcontractors of any tier shall be borne by the Contractor.

10.11 Cleaning Up.

10.11.1 The Contractor at all times during the progress of the Work shall keep the premises free from accumulation of waste materials or rubbish caused by its operations. At the completion of the Work it shall remove all its waste materials and rubbish from and about the Project as well as all its tools, construction equipment, machinery and surplus materials not specified to be left at the site, and shall clean as or materials as specified, and leave the Work broom-clean or its equivalent if a broom cannot be used, except where more stringent cleaning requirements are provided by the Contract Documents.

10.11.2 If the Contractor fails to satisfactorily clean up, NACFD will do so and the cost thereof shall be charged to the Contractor as provided in Paragraph 12.4.

10.12 Communications.

10.12.1 The Contractor shall forward all communications to NACFD's Representative, who is Chief Tim King, 2470 Butler Ave., Kingman, Arizona 86409, or such other representative as designated by the Chief from time to time.

10.13 Indemnification.

10.13.1 To the fullest extent permitted by law, the Contractor shall indemnify, hold harmless and defend NACFD, its agents, officers and employees from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Contractor, Consultants, Subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Paragraph 10.13.

10.13.2 In claims against any person or entity indemnified under this Paragraph 10.13 by an employee of the Contractor, consultants, subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this

Paragraph 10.13 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor, consultants, or subcontractors under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

10.14 Audit of Contractor's Records.

10.14.1 NACFD shall have the right to audit the records of the Contractor. NACFD or NACFD's Representative shall have access to all records, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with this Subparagraph. NACFD or NACFD's Representative shall give Contractor reasonable advance notice of intended audits.

ARTICLE 11. SUBCONTRACTORS

11.1 Definition.

11.1.1 A Subcontractor is a person or organization who has a direct contract with the Contractor to supply materials or equipment or to perform any of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or its authorized representative.

11.1.2 A Sub-subcontractor is a person or organization who has a direct or indirect contract with the Subcontractor to perform any of the Work at the site, or to supply any materials or equipment to be used in the Project. The term "Sub-subcontractor" is referred to throughout the Contract Documents as singular in number and means a Sub-subcontractor or its authorized representative.

11.1.3 Nothing contained in the Contract Documents shall create any contractual, master-servant or principal-agent relationship between NACFD and the Contractor, engineer or any Subcontractor or Sub-subcontractor.

11.2 Subcontractual Relations.

11.2.1 All work performed for the Contractor by a Subcontractor shall be pursuant to an appropriate agreement between the Contractor and the Subcontractor (and where appropriate between Subcontractors and Sub-subcontractors) which shall contain provisions that:

- .1 preserve and protect the rights of NACFD under the Contract Documents with respect to the Work to be performed under the subcontract so that the subcontracting thereof will not prejudice such rights.
- .2 require that such Work be performed in accordance with the requirements of the Contract Documents, including, but not limited to:
 - a. require submission to the Contractor of applications for payment under each subcontract to which the Contractor is a party, in reasonable time to enable the Contractor to apply for payment in accordance with Article 15;
 - b. require that all claims for additional costs, extensions of time, damages for delays or otherwise with respect to subcontracted portions of the Work shall be submitted

to the Contractor (via any Subcontractor or Sub-subcontractor where appropriate) in the manner provided in the Contract Documents for like claims by the Contractor upon NACFD;

c. obligate such Subcontractor specifically to consent to the provisions of this Subparagraph;

d. over all Work done through the previous applications(s); and

e. require such Subcontractor to comply with all laws, indemnify NACFD as provided in Paragraph 10.13.

.3 waive all rights the contracting parties may have against one another for damages caused by fire or other perils covered by the property insurance described in Article 17, except such rights as they may have to the proceeds of such insurance held by NACFD as trustee under Article 17.

11.3 Payments to Subcontractors.

11.3.1 NACFD shall not have any obligation to pay or to see to the payment of any monies to any Subcontractor except as may otherwise be provided by law.

ARTICLE 12. SEPARATE CONTRACTS

12.1 NACFD's Right to Award Separate Contracts.

12.1.1 NACFD reserves the right to award other contracts in connection with other portions of the Project under conditions similar to this Contract.

12.2 Mutual Responsibilities of Contractor.

12.2.1 The Contractor shall afford sub-contractors, or other contractors (if any) reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall properly connect and coordinate its Work with theirs.

12.2.2 If any part of the Contractor's Work depends for proper execution or results upon the work of any other separate contractor, the Contractor shall inspect and promptly report to NACFD any apparent discrepancies or defects in such work that render it unsuitable for such proper execution and results. Failure of the Contractor to report such discrepancy or defect shall constitute an acceptance of the other contractor's work as fit and proper to receive its Work, except as to defects that may develop in the other separate contractor's work after the execution of the Contractor's Work.

12.2.3 Should the Contractor cause damage to the Work or property of any separate contractor on the Project not to be insured under Article 17 herein, the Contractor shall, upon due notice, in writing, promptly settle such other contractor's claim, if it will so settle. If such separate contractor sues NACFD on account of any damage alleged to have been so sustained, NACFD shall promptly notify the Contractor, who shall defend such proceedings at the Contractor's expense,

and if any judgment against NACFD arises therefrom, the Contractor shall, to the extent of Contractor's liability, promptly pay or satisfy it and shall immediately, upon presentation to it of a statement thereof, reimburse NACFD for all attorney's fees and court costs which NACFD has incurred.

12.2.4 Any costs caused by non-conforming or ill-timed work shall be borne by the party responsible therefor.

12.3 Cutting and Patching Under Separate Contracts.

12.3.1 The Contractor shall do all cutting, fitting or patching of its Work that may be required to fit it to receive or be received by the work of other contractors shown in the Contract Documents. The Contractor shall not endanger any work of any other contractors by cutting, excavating or otherwise altering any work and shall not cut or alter the work of any other contractor except with the written consent of NACFD.

12.3.2 NACFD shall require that each separate contractor have the same obligations for cutting and patching as are required of the Contractor herein.

12.4 NACFD's Right to Clean Up.

12.4.1 If a dispute arises between the separate contractors as to their responsibility for cleaning up, NACFD may clean up and charge the cost thereof to the several contractors as NACFD shall determine to be just.

ARTICLE 13. MISCELLANEOUS PROVISIONS

13.1 Successors and Assigns.

13.1.1 NACFD and the Contractor each binds itself, its successors, assigns and legal representatives to the other party hereto and to the successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Contract Documents.

13.2 Claims for Damages.

13.2.1 Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the other party or of any of its employees, agents or others for whose acts it is legally liable, claim shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

13.3 NACFD's Right to Complete the Work.

13.3.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents, NACFD, after providing seven days' written notice to the Contractor, and the opportunity to cure, which cure must commence within said seven-day period, and without prejudice to any other remedy NACFD may have, may proceed to make such other necessary and

reasonable arrangements to carry out the Work in accordance with the Contract Documents, all at the expense of the Contractor, including NACFD's attorneys' fees and other costs.

13.4 Royalties and Patents.

13.4.1 The Contractor shall pay all royalties and license fees. Contractor shall defend all suits or claims from infringement of any patent right and shall save NACFD harmless from loss on account thereof, including NACFD's attorneys' fees and court costs.

13.5 Tests.

13.5.1 Where the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any Work to be inspected, tested or approved, the Contractor shall give NACFD timely notice of its readiness and of the date arranged so NACFD may observe such inspection, testing, or approval. All inspections or tests required by the authority having jurisdiction shall be paid for by NACFD.

13.5.2 The Contractor shall be responsible that all equipment and materials used in the construction of the Project, especially those upon which the strength and durability of the structure may depend, shall be subject to adequate inspection and testing in accordance with accepted standards to establish conformity with Specifications, applicable codes and standards and suitability for use intended.

13.5.3 If after the commencement of the Work the engineer or NACFD determines that any Work requires special inspection, testing, or approval, either may order such special inspection, testing or approval, and the Contractor shall give notice of readiness. If such special inspection or testing reveals a failure of the Work to comply with the requirements of the Contract Documents, the Contractor shall bear all costs thereof and the costs of such inspection or testing; otherwise NACFD shall bear such costs of special inspection.

13.5.4 Required certificates of re-inspections or retesting to secure approval under Paragraph 10.6 above shall be paid for by the Contractor.

13.5.5 If NACFD wishes to observe the inspections, tests or approvals required by this Paragraph 13.5, it will do so promptly and, where appropriate, at the source of supply.

13.6 Non-appropriation.

13.6.1 This Agreement shall be subject to available funding for NACFD, and nothing in this Agreement shall bind NACFD to expenditures in excess of funds appropriated and allotted for the purposes outlined in this Agreement.

ARTICLE 14. TIME

14.1 Contract Time, Liquidated Damages and Related Provisions.

14.1.1 It is understood and agreed that the construction of the Work under the Contract Documents shall be commenced on the date stated in the Notice to Proceed issued by NACFD or the date of this Contract if no Notice to Proceed is issued, and shall be substantially or finally, as appropriate, completed by the Contractor within the time specified in Article 1 herein (the "Finish Date"). The Contract Time is the period of time from (1) the date specified in Paragraph 1.1 as the date upon which the Contractor is to commence the Work (the "Start Date"), through (2) the Finish Date for substantial completion or Final Completion, as appropriate. The date of beginning, rate of progress, and time for completion are essential conditions of the Contract, and the Contractor agrees that said Work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure full completion thereof within the Contract Time specified. It is expressly agreed that the Contract Time is reasonable.

14.1.2 If Substantial Completion as defined in Paragraph 14.3, or the Final Completion Date as defined in Paragraph 1.1, occurs after the expiration of the Contract Time, the Contractor shall pay NACFD the appropriate sum specified in Paragraph 7.2 herein as liquidated damages for each calendar day the Work remains incomplete after expiration of the Contract Time. These amounts are agreed upon because of the impracticability and extreme difficulty of ascertaining the actual damages NACFD would sustain. Said amounts may be retained by NACFD from final payment due the Contractor, provided the Contractor does not waive any rights or claims against such amounts withheld should there be a dispute.

14.1.3 The date of Substantial Completion of the Work, or designated portion thereof, is the date certified in writing by NACFD when construction is sufficiently complete, in accordance with the Contract Documents as they may have been modified by any change orders agreed to by the parties, so that NACFD may occupy the Work, or a designated portion thereof, if it so elects, for the use for which it is intended. Certification of a designated portion of the Work by NACFD as being "Substantially Complete" and occupancy of that portion thereafter by NACFD shall neither release, or otherwise operate to excuse, the Contractor from its duty to complete the remainder of the Work within the Contract Time nor relieve the Contractor from any liability for not completing the remainder of Work within the Contract Time including liability for liquidated damages.

14.1.4 The Final Completion Date is the calendar date when all items of the Work as established by the Certificate of Substantial Completion and its respective Punch List are one hundred percent (100%) finished. When NACFD certifies in writing that the Final Completion Date is reached, the Contractor may make application for final payment.

14.2 Progress and Completion.

14.2.1 All time limits stated in the Contract Documents are of the essence of the Contract.

14.2.2 The Contractor shall begin the Work on the date of commencement as defined in Paragraph 1.1. Contractor shall carry the Work forward expeditiously, uninterruptedly and with adequate forces and shall complete it within the Contract Time.

14.3 Delays and Extensions of Time.

14.3.1 If the Contractor is delayed at any time in the progress of the Work by any cause that NACFD reasonably determines may justify the delay, including, but not limited to, acts of God, acts of the public enemy, acts or neglect of NACFD, acts of another contractor in performance of a contract with NACFD, fires, floods, epidemics, quarantine restrictions, freight embargoes, unavoidable casualties, labor disputes causing delay in material or equipment deliveries, unusual delays in transportation, or adverse weather detrimental to completion of the Work and materially different than weather normally experienced during the Contract Time as determined on a monthly basis, then the Contract Time shall be extended by change order for such reasonable time as NACFD may determine. No extension of the Contract Time pursuant to this Subparagraph shall relieve the Contractor from any obligation attendant upon him under any of the provisions of this Contract. It is expressly agreed that NACFD's liability for delay from any cause, except delay caused by NACFD, shall be limited to granting a time extension to the Contractor, and there is no other obligation, express or implied, on the part of NACFD to the Contractor.

14.3.2 All claims for extension of time shall be made in writing to NACFD. The notice of claim must be submitted no more than twenty (20) days after the occurrence of the delay and a detailed claim including a breakdown of all known costs involved shall be submitted no more than twenty (20) days after the occurrence; otherwise, such claim shall be waived. In the case of a continuing cause of delay, only one claim is necessary, although the Contractor shall promptly notify NACFD in writing of the date of the termination of the continuing cause of delay.

ARTICLE 15. PAYMENTS AND COMPLETION

15.1 Contract Amount.

15.1.1 The Contract Amount is as stated in Paragraph 7.1 of this Contract and is the total amount payable by NACFD to the Contractor for the performance of the Work under the Contract Documents, subject to credits or increases resulting from change orders.

15.2 Schedule of Values.

15.2.1 Before the first Application for Payment, the Contractor shall submit to NACFD a detailed schedule of values reflecting as nearly as reasonably possible the actual values of the various components of the Work aggregating the total Contract Amount, prepared in such detail and such form as NACFD may require, and supported by such data to substantiate its correctness as NACFD may require. Each item in the schedule of values may include its proper share of overhead and profit or such overhead and profit may be shown as separate line items and shall be billed in proportion to the percent of the Project completed.

15.3 Progress Payments.

15.3.1 On or about the 25th day of each calendar month, the Contractor shall submit to NACFD an itemized application for payment supported by such data substantiating the Contractor's right to payment as NACFD may require. The Contractor shall also submit a release of claim and lien

waiver covering all work performed to date, including the work of each Subcontractor, laborer and material supplier.

15.3.2 Payments shall be based on the work actually performed during the preceding calendar month. Payment may be made for materials not incorporated in the Work but delivered and suitably stored at the site, or at some other location under such conditions agreed upon in writing by NACFD to be transported to the site and installed at a later date.

15.3.3 Material delivered and suitably stored at the site, or at some other agreed-upon location by the Contractor, Subcontractors, Sub-subcontractors, or material suppliers shall remain the responsibility of the Contractor until incorporated into the Work, shall be insured for the benefit of NACFD, the Contractor and Subcontractor to the full value of the material and shall be suitably stored and protected. Only such material that is in accordance with the Contract Documents shall be installed into the Work. Until the final completion and acceptance of the Work by NACFD, it shall be the Contractor's responsibility to protect all materials to be installed in or delivered to the Project.

15.3.4 The Contractor warrants and guarantees that title for all work, materials and equipment covered by an Application for Payment shall pass to NACFD either by incorporation in the Project or upon receipt of payment by the Contractor, whichever occurs first and that such work, materials and equipment shall be free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to in this Article 15 as "claims."

15.4 Approvals for Payment.

15.4.1 If the Contractor has made application for payment as above, then not later than the 5th day of the following month, NACFD shall issue its approval of the application for such amount as it determines to be properly due, or as provided in Subparagraph 15.5.1, state in writing its reasons for withholding, in whole or in part, the amount applied for.

15.4.2 NACFD shall make a payment to the Contractor on the basis of the value of the Work actually performed during the preceding calendar month in accordance with Subparagraph 15.3.2, less the amount of retention specified in Subparagraph 15.4.4 hereof. Such payments shall be made within twenty-one (21) days after receipt of application for payment. If the Contractor has properly requested NACFD pursuant to Subparagraph 15.3.1 of this Contract to accept substitute security, NACFD shall pay to the Contractor one hundred percent (100%) of the value of the Work actually performed during the preceding calendar month in accordance with this Paragraph 15. If the Contractor did not request an acceptance of substitute security, made an incomplete or incorrect assignment or made a legally insufficient assignment of substitute security, as determined by NACFD or NACFD's attorney, NACFD shall retain the amount of such approved application for payment specified in Subparagraph 15.4.4 hereof as a guarantee of the complete performance of the Contract. Any amounts retained or any securities held by NACFD shall be returned to the Contractor within sixty (60) days after the Final Completion Date as specified in Subparagraph 15.6.2 of this Contract and General Conditions, provided the Contractor has by that time duly furnished NACFD any and all documents indicated to be furnished by the close out requirements of the specifications or required for the proper maintenance and functioning of the Work as a

whole. The Contractor shall submit along with the application for payment lien waivers from each subcontractor, materials or equipment supplier, the aggregate sum of which shall be the amount of the previous progress payment issued to the Contractor. If lien waivers from all subcontractors, materials or equipment suppliers do not equal the aggregate sum of the previous progress payment, the Contractor shall submit the following statement along with the current progress payment request: "I hereby certify as General Contractor on this Project that I have paid all subcontractors, materials or equipment suppliers for the Work provided in conjunction with this Project for which I have previously received payment."

15.4.3 In its application for payment, or in a separate notice, the Contractor shall include and itemize, and furnish such supporting particulars as NACFD shall require, all claims for additional compensation against NACFD arising under the Contract Documents or any covenant thereof, express or implied, or from any cause whatsoever, within the time limits prescribed in Subparagraph 18.2.1. It is expressly covenanted that the purpose of this provision is to guard NACFD against surprise claims and to permit NACFD to investigate claims as the same may arise. It is expressly covenanted that NACFD shall have no liability on any claim submitted unless such claim was submitted in writing at the time and in the manner required herein.

15.4.4 NACFD shall retain ten percent (10%) of the amount of each application for payment as insurance of proper performance of the Contract. Once the Work is fifty percent (50%) complete, one-half of the retention then held shall be paid to the Contractor provided the Contractor is making satisfactory progress and there is no specific cause or claim requiring a greater amount to be retained. After the Contract is fifty percent (50%) complete, five percent (5%) of the amount of each subsequent application for payment shall be retained providing the Contractor is making satisfactory progress on the Project. If at any time NACFD determines that the Contractor is not making satisfactory progress, then NACFD may retain ten percent (10%) of all subsequent applications for payment.

15.4.5 No certificate for a progress payment, nor any progress payment, nor any partial or entire use or occupancy of the Project by NACFD, shall constitute an acceptance of any Work not in accordance with the Contract Documents.

15.5 Payments Withheld.

15.5.1 NACFD may decline to approve any Applications for Payment or, because of subsequently discovered evidence or subsequent inspections, may nullify the whole or any part of any Certificate for Payment previously issued to such extent as may be necessary in its opinion because of:

- .1 defective work not remedied,
- .2 claims filed or reasonable evidence indicating probable filing of claims,
- .3 reasonable evidence that the Work can not be completed for the unpaid balance of the Contract Amount,
- .4 damage to another contractor,
- .5 reasonable indication that the Work will not be completed within the Contract Time, or
- .6 failure to carry out the Work in accordance with the Contract Documents.

15.5.2 When the grounds in Subparagraph 15.5.1 are removed, or in the case of 15.5.1.3, when NACFD is satisfied that the Contractor will complete the Project at the agreed-upon price, payment shall be made for amounts withheld because of them.

15.5.3 If the Contractor is not paid within fourteen (14) days after any amount is approved for payment and has become due and payable, then the Contractor may, upon seven additional days' written notice to NACFD, stop the Work until payment of the amount owing has been received. The Construction Amount shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start up .

15.6 Substantial Completion and Final Payment.

15.6.1 When the Contractor determines that the Work or a designated portion thereof acceptable to NACFD is substantially complete, NACFD shall prepare for submission to the Contractor one punch list of items to be completed or corrected on the Project, or designated portion thereof. The punch list shall be the basis for determination of the Date of Final Completion. Any item on such list shall be completed or corrected before the Final Completion Date. The failure to include any items on such punch list does not relieve the responsibility of the Contractor to complete all work in accordance with the Contract Documents. When NACFD, on the basis of an inspection, determines that the Work is substantially complete, it will then prepare a Certificate of Substantial Completion. The Certificate of Substantial Completion shall be submitted to the Contractor for its written acceptance.

15.6.2 Upon receipt of written notice that the Work is ready for final inspection and acceptance, NACFD will promptly make such inspection and, when NACFD finds (1) the Work in accordance with and acceptable under the Contract Documents, (2) the Work completed under the Contract fully performed and (3) the Final Completion Date has been reached, as that term is defined in Subparagraph 15.1.4, then, and only then, NACFD shall promptly state in writing that, to the best of its knowledge, information and belief, and on the basis of observations and inspections, the Work has been fully completed in accordance with the terms and conditions of the Contract Documents, and that the entire balance found to be due the Contractor is payable.

15.6.3 The making of final payment shall constitute a waiver of all claims by NACFD except those arising from:

- .1 unsettled claims,
- .2 faulty or defective Work,
- .3 failure of the Work to comply with the requirements of the Contract Documents, or
- .4 terms of any guarantees required by the Contract Documents.

15.6.4 The acceptance of final payment shall constitute a waiver of all claims by the Contractor, except claims made but not settled.

15.6.5 No earlier than three weeks before the expiration of the guarantee period specified in Paragraph 21.1 herein, or at such other additional earlier time or times as NACFD may agree,

NACFD, in company with the Contractor, shall make an inspection of the Project and certify that all defects in material and workmanship occurring during this period have been satisfactorily corrected.

15.6.6 If, after Substantial Completion of the Work, Final Completion thereof is materially delayed through no fault of the Contractor or by the issuance of change orders affecting Final Completion, NACFD shall, upon application by the Contractor and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than the retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to NACFD prior to certification of such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims. If a change order extending the time for Substantial Completion is issued within 90 days of the Contract Time specified for Substantial Completion, the Contractor shall be entitled to payment of retention based upon the date of Substantial Completion disregarding the change in Contract Time resulting from the change order, providing that all other conditions to the payment of retention have been satisfied. Where retention is paid prior to Final Completion, NACFD may retain an amount equal to two hundred percent (200%) of the value of the Work that remains incomplete.

ARTICLE 16. PROTECTION OF PERSONS AND PROPERTY

16.1 Safety Precautions and Programs.

16.1.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work in compliance with all local, state and federal laws and regulations.

16.2 Safety of Persons and Protection of Property.

16.2.1 The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss, to:

1. all persons engaged in the Work and all other persons who may be affected thereby;
2. all the Work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of its Subcontractors or Sub-subcontractors; and
3. other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

16.2.2 The Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss. It shall erect and maintain, as required by existing conditions and the progress of the Work, all reasonable safeguards for safety and protection, including, but

not limited to, posting danger signs and other warnings against hazards, promulgating safety regulations and notifying NACFD and users of adjacent utilities.

16.2.3 When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.

16.2.4 All damage or loss to any property, except to the extent insured under Paragraph 17.2 herein, caused in whole or in part by the Contractor, any Subcontractor, any Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, shall be remedied by the Contractor.

16.3 Emergencies.

16.3.1 In any emergency affecting the safety of persons or property, the Contractor shall act to prevent threatened damage, injury, or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided by the applicable provisions of the Contract Documents.

ARTICLE 17. INSURANCE

17.1 Contractor's Insurance.

17.1.1 The Contractor shall procure and shall maintain during the entire life of this Contract the insurance of the kind and amount specified in Paragraphs 17.3, 17.4, and 17.5, and Subparagraph 17.2.3 herein. The cost of all such insurance shall be borne by the Contractor. The cost of any deductible associated with any insurance provided hereunder shall be borne by the Contractor.

17.1.2 The Contractor shall not commence work under this Contract until it has obtained and secured NACFD's approval of all insurance required herein, nor shall the Contractor allow any Subcontractor to commence work on its Subcontract until the insurance required of the Subcontractor has been so obtained and approved by Contractor.

17.2 Property Insurance.

17.2.1 The Contractor shall procure and maintain property insurance upon the entire Project property on a replacement cost basis. The insurance shall include NACFD and the Subcontractors and Sub-subcontractors as additional insureds as their interest may appear, and shall insure the Project and adjacent structures against loss from the perils of Fire, Extended Coverage, and shall be extended to include "All Risk" coverage including, but not limited to, theft, vandalism, malicious mischief, collapse, flood, earthquake, and damage resulting from faulty workmanship or materials. The Contractor will increase limits of coverage, if necessary, to reflect estimated replacement cost and will be responsible for any deductible.

17.2.2 If NACFD finds it necessary to occupy or use a portion or portions of the Project prior to Substantial Completion thereof, such occupancy shall not commence prior to a time mutually

agreed to by NACFD and the Contractor and to which the insurance company or companies providing the property insurance have consented by endorsement of the policy or policies. The insurance provided in Subparagraph 17.2.1 shall not be cancelled or lapsed on account of such partial occupancy. Consent of the Contractor and of the insurance company or companies to such occupancy or use shall not be unreasonably withheld.

17.2.3 The Contractor shall purchase and maintain such insurance as will protect NACFD and the Contractor against loss of use of NACFD's interest in materials in transit or off-site and not installed due to those perils insured pursuant to Subparagraph 17.2. 1.

17.2.4 The Contractor shall file a copy of the policies required of the Contractor in this Paragraph 17.2 with NACFD before an exposure to loss may occur. Copies of any subsequent endorsements will be furnished to NACFD. NACFD will be given thirty (30) days notice of cancellation, non-renewal, or any endorsements restricting or reducing coverage.

17.2.5 NACFD reserves the right to request and receive certified copies of any or all of the above insurance policies and/or endorsements.

17.2.6 All insurance policies required by this Article 17 shall be obtained from a financially sound insurance company rated not less than B+ (Very Good) XII by A.M. Best Company, and be authorized to do business in the State of Arizona.

17.3 Compensation Insurance.

17.3.1 The Contractor shall procure and shall maintain during the life of this Contract Worker's Compensation Insurance for all its employees to be engaged in work on the Project under this Contract and, in case of any such work sublet, the Contractor shall require the Subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's Worker's Compensation Insurance. In case any class of employees engaged in work on the Project under this Contract is not protected under the Worker's Compensation Insurance, the Contractor shall provide and shall cause each Subcontractor to provide adequate employer's general liability insurance for the protection of those of its employees as are not otherwise protected.

17.4 Contractor's Public Liability, Environmental and Property Damage Insurance.

17.4.1 Contractor shall maintain general liability insurance with a minimum combined single limit of two million dollars (\$2,000,000.00) each occurrence applicable to the Work and an annual aggregate limit of liability of three million dollars (\$3,000,000.00) applicable to the construction of the Work; automobile liability insurance with a combined single limit for bodily injury and property damage of not less than one million dollars (\$1,000,000.00) each occurrence with respect to vehicles assigned to or used in the construction of the Work; environmental liability with minimum limits of five million dollars (\$5,000,000.00) per claim and five million dollars (\$5,000,000.00) annual aggregate; umbrella/excess liability of at least five million dollars (\$5,000,000.00) per occurrence and in the aggregate. The policy shall include coverage for any and

all of the following: bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), contractual liability, incidental professional liability, and products and completed operations. The products and completed operations coverage shall extend for five (5) years past acceptance, cancellation or termination of the Work. Said policy shall contain a severability of interest provisions.

17.4.2 Contractor's equipment insurance covering owned, non-owned, and leased equipment used in connection with the construction of the Work.

17.5 Professional Liability insurance in an amount not less than \$5,000,000 covering professional errors and omissions in their capacity as an architect, engineer, land surveyor, or construction manager.

17.6 Proof of Carriage of Insurance.

17.6.1 Certificates of the insurance required in this Article 17 shall be filed with NACFD prior to commencement of work, in a form satisfactory to NACFD. All insurance policies, other than workers compensation, shall list NACFD as additional named insureds as provided herein and shall include a clause to the effect that the policy shall not be cancelled or reduced, restricted or limited until 30 days after NACFD has received written notice, evidenced by a return receipt of a registered or certified letter, of the proposed action. Certificates of insurance and any notice of cancellation or material change should be sent to NACFD. Certificates evidencing the completed operation liability coverage will be required for three (3) years past the date NACFD accepts it as Finally Complete. Failure on the part of Contractor to produce or maintain required insurance shall constitute a material breach of contract upon which NACFD may immediately terminate the Contract or, at its sole discretion, produce or renew such insurance and pay any and all premiums in connection therewith, and all monies so paid by NACFD shall be repaid by Contractor to NACFD upon demand, or NACFD may offset the cost of the premiums against any monies due to Contractor from NACFD.

ARTICLE 18. CHANGES IN THE WORK AND CLAIMS

18.1 Change Orders.

18.1.1 NACFD, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions, delay, reconstruction or other revisions, and the Contract Amount and/or the Contract Time shall be adjusted accordingly under the applicable conditions of the Contract Documents.

18.1.2 A change order is a written amendment to the Contract signed by NACFD and the Contractor, issued after the execution of the Contract, authorizing a change in the Work or an adjustment in the Contract Amount or the Contract Time. The Contract Amount and the Contract Time may be changed only by change order.

18.1.3 The cost or credit, as the case may be, to NACFD resulting from a change in the Work shall be determined in one or more of the following ways as mutually agreed:

- .1 by mutual acceptance of a lump sum properly itemized in a form acceptable to NACFD;
 - .2 by unit prices stated in the Contract Documents or subsequently agreed upon;
- or
- .3 by actual cost and a mutually acceptable fixed or percentage fee covering overhead and profit.

The total amount of combined overhead and profit allowed the Contractor on any change order, regardless of the method of computation of the price and whether an increase or decrease, shall not exceed fifteen percent (15%) of the Direct Cost of the change order Work when the Work is performed by the Contractor. The total amount of combined overhead and profit allowed the Contractor on any change order, regardless of the method of computation of the price and whether an increase or decrease, shall not exceed ten percent (10%) of the Direct Cost of the change order Work when the Work is performed by any level of Subcontractor, and the total combined overhead and profit allowed Contractor for overhead and profit of all Subcontractors and Sub-subcontractors, if any, shall not exceed fifteen percent (15%) of the Direct Cost of the change order Work.

18.1.4 Under Paragraph 18.1 above, the Contractor shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data. The amount of credit to be allowed by the Contractor to NACFD for any deletion or change that results in a net decrease in cost will be the amount of the actual net decrease. When both additions and credits are involved in any one change, the allowance for overhead, profit and General Job Expenses shall be figured on the basis of the net increase, if any.

18.1.5 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed change order that application of the agreed unit prices to the quantities of Work proposed will create a hardship on NACFD or the Contractor, the applicable unit prices shall be equitably adjusted to prevent such hardship.

18.2 Claims for Additional Cost or Time.

18.2.1 If the Contractor is entitled, under the terms of the Contract, to make a claim for an increase in the Contract Amount, Contract Time or any other claim, it shall give NACFD written notice thereof within twenty (20) days after the Contractor has become aware of an occurrence of an event giving rise to such claim. Any notice other than one made for an extension of the Contract Time shall be given by the Contractor before proceeding to execute the Work that is the subject matter of the claim, except in an emergency endangering life or property, in which case the Contractor shall proceed in accordance with Subparagraph 16.3.1. All claims shall be made within the time limits prescribed herein and no such claim shall be valid unless so made. To be effective, any change in the Contract Amount or Contract Time resulting from such claim shall be approved by NACFD and authorized by change order.

18.3 Minor Changes in the Work.

18.3.1 NACFD shall have authority to order minor changes in the Work not involving an adjustment in the Construction Amount or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and such changes shall be binding on NACFD and the Contractor. The Contractor shall carry out such written orders promptly.

ARTICLE 19. UNCOVERING AND CORRECTION OF WORK

19.1 Uncovering of Work.

19.1.1 If any Work should be covered contrary to the request of NACFD, it must, if required in writing by NACFD, be uncovered for its observation and replaced all at the Contractor's expense.

19.1.2 If any other Work has been covered which NACFD has not requested to observe prior to being covered, NACFD may request to see such Work and it shall be uncovered by the Contractor. If such Work is found to be in accordance with the Contract Documents, the cost of uncovering and replacement after approval by NACFD shall, by appropriate change order, be charged to NACFD. If such Work is found not to be in accordance with the Contract Documents, the Contractor shall pay such costs unless it is found that this condition was caused by a separate contractor employed as provided in Article 12, and in that event NACFD shall be responsible for the payment of such costs.

19.2 Correction of Work.

19.2.1 The Contractor shall promptly correct all Work rejected by NACFD as defective or as failing to conform to the Contract Documents whether observed before or after Final Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected Work, including the cost of NACFD's consultants, additional services made necessary thereby.

19.2.2 If, within the time provided in Paragraph 21.1 or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, including the original conformance with the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, the Contractor, at its sole expense, shall correct it promptly after receipt of a written notice from NACFD to do so, unless NACFD has previously given the Contractor a specific written acceptance of such condition. NACFD shall give such notice promptly after discovery of the condition.

19.2.3 All such defective or non-conforming Work under Subparagraphs 19.2.1 and 19.2.2 shall be removed from the site where necessary, and the Work shall be corrected to comply with the Contract Documents without cost to NACFD, unless removal has been specifically waived in writing by NACFD.

19.2.4 The Contractor shall bear the cost of making good all work of separate contractors destroyed or damaged by such removal or correction.

19.2.5 If the Contractor does not remove such defective or non-conforming work within a reasonable time fixed by written notice from NACFD, NACFD may remove it and may store the materials or equipment at the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage within ten days after receipt of a statement of charges therefor, NACFD may, upon ten additional days written notice, sell such work at auction or at private sale and shall account for the net proceeds thereof after deducting all the costs that should have been borne by the Contractor, including compensation for additional engineering services, costs of storage, transportation and sale and any attorneys' fees incurred by NACFD in connection therewith. If such proceeds of sale do not cover all costs which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate change order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to NACFD, and all attorneys' fees and other costs that NACFD may incur in collecting same.

19.2.6 If the Contractor fails to correct such defective or non-conforming work, NACFD may correct it in accordance with Paragraph 13.3.

19.2.7 The obligations of the Contractor under this Paragraph 19.2 shall be in addition to and not in limitation of any obligations imposed upon him by special guarantees required by the Contract Documents or otherwise prescribed by law.

19.3 Acceptance of Defective or Non-Conforming Work.

19.3.1 If NACFD prefers to accept defective or non-conforming Work, it may do so instead of requiring its removal and correction, in which case a change order will be issued to reflect an appropriate reduction in the Contract Amount, or, if the amount is determined after final payment, it shall be paid by the Contractor.

ARTICLE 20. TERMINATION OF THE CONTRACT

20.1 Termination by the Contractor.

20.1.1 If the Work, in whole or substantial part, is stopped for a period of one hundred twenty (120) days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Contractor, or if the Work should be stopped for a period of sixty (60) days due to NACFD's failure to make payment thereon, then the Contractor may, upon seven (7) days' written notice to NACFD, terminate the Contract and recover from NACFD payment for all work executed, , and for any proven loss sustained upon any materials, equipment, tools, construction equipment and machinery, for cancellation charges on existing obligations of the Contractor, and for a reasonable profit.

20.2 Termination by NACFD.

20.2.1 If the Contractor files or has filed against it any petition in bankruptcy, or if it makes a general assignment for benefit of its creditors, or if a receiver is appointed on account of its

insolvency, or if it refuses or fails, except in cases for which extension of time is provided, to supply enough properly-skilled workmen or sufficient and proper materials to complete the Work in accord with the Progress Schedule and Contract Time, or if it fails to make prompt payments to Subcontractors or for materials or labor, or disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or fails to uninterruptedly complete the Work once it has the Notice to Proceed, or otherwise is guilty of a material breach of any provision of the Contract Documents, then NACFD may, without prejudice to any other right or remedy and after giving the Contractor seven (7) days' written notice and Contractor has failed to commence to cure, terminate the employment of the Contractor and take possession of the site and all materials, and may finish the Work by whatever method it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.

20.2.2 If the unpaid balance of the Contract Amount is exceeded by the costs of finishing the Work, attorneys' fees and all other costs incurred by NACFD in completion of the Contractor's obligations, the Contractor shall pay the difference to NACFD.

ARTICLE 21. GENERAL PROVISIONS

21.1 Seven-Year Guarantee.

21.1.1 The Contractor shall guarantee all Work under this Contract to be in accordance with the Contract Documents against defects of material and workmanship for a period of seven years from the date of Substantial Completion; provided, however, that those items of the Work specified as having longer guarantees shall be guaranteed for the period specified. The Contractor's guarantee excludes damage or defect caused by abuse of NACFD or third parties, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear under normal usage.

21.1.2 The Contractor shall be responsible for the total cost of repairing and restoring to a new condition, any Work found not in compliance with the Contract Documents or any defective Work, at no cost to NACFD, subject to the limitation of Subparagraph 19.1.2 and provided that NACFD's use did not create the defect or non-compliant condition.

21.1.3 In any case where the subject matter of the non-compliance or defect relates to Work done under a subcontract between the Contractor and any Subcontractor, it is the responsibility of the Contractor, not NACFD, to secure the Subcontractor's performance in compliance with this Subparagraph and, in the event of the Subcontractor's failure or refusal within a reasonable time to perform after notice, it shall be the Contractor's responsibility to repair and restore such non-complying or defective Work to a new condition, at no cost to NACFD.

21.1.4 In any case where the non-complying or defective Work has been brought to the attention of the Contractor by NACFD by written communication and the Contractor fails or refuses to commence and diligently pursue correction of the defect within five (5) days after such notice, NACFD may elect, without precluding any other remedy it may have available to it, to have the defective Work repaired and restored to a new condition in whatever reasonable manner it deems

appropriate, and the Contractor shall be liable to NACFD for the total reasonable cost thereof, including, by way of example only, any engineering and legal fees related to effecting the repair.

21.1.5 Material and workmanship made good through compliance with such guarantee shall be guaranteed until the expiration of the original seven-year period, unless the same item requires correction on more than two occasions, in which case the material or workmanship shall be guaranteed for seven years from the last correction that occurs during the original seven-year guarantee. Such guarantee period shall begin on the date the replaced material and work is completed.

21.2 Sanitation.

21.2.1 The Contractor shall provide and erect portable toilets, at points to be determined by NACFD, for the use of employees on this Project. Following the period of necessity for such facilities, they shall be removed and all evidence thereof effaced.

21.3 Use of Premises.

21.3.1 The Contractor shall confine its equipment and plant, the storage of materials, and the operations of its workmen to limits indicated by law, ordinances, permits, or directions of NACFD and shall not unreasonably encumber the premises with materials or equipment.

21.3.2 The Contractor shall enforce NACFD's instructions regarding signs, advertisements, fires, and smoking.

21.4 Severability.

22.4.1 In the event any provision in this contract is held invalid by any court of competent jurisdiction, the remaining provisions in this Contract shall be deemed severable and shall remain in full force and effect.

21.5 Cash Allowance.

21.5.1 The Contractor agrees that it has included in the Contract Amount all cash allowances, if any, specified in the Contract Documents, and shall cause the work so covered to be undertaken by such contractors as NACFD may direct, the Contract Amount being adjusted in conformity therewith. The Contractor agrees that the Contract Amount includes direct cost, general job expenses, overhead, profit, taxes, and fees. No demand for any sum other than those included in the Contract Amount shall be allowed in connection with the Cash Allowance and only direct costs may be charged against the Cash Allowance. If the cost, when determined, is more than or less than the allowance, the Contract Amount shall be adjusted accordingly by change order.

ARTICLE 22. NON-DISCRIMINATION

22.1 Contractor shall not discriminate against any NACFD employee, client, or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or

national origin in the course of carrying out Contractor's duties pursuant to this Contract. Contractor shall comply with the provisions of Arizona Executive Order 75-5, as amended by Executive Order 99-4, which are incorporated into this Contract by reference as if set forth in full herein.

ARTICLE 23. AMERICANS WITH DISABILITIES ACT

23.1 Contractor shall comply with all applicable provisions of the Americans with Disabilities Act 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

ARTICLE 24. No Boycott of Israel

24.1 To the extent required by law, successful Contractor will certify it is not currently engaged in a boycott of Israel and will not engage in a boycott of Israel during the term of the Agreement.

ARTICLE 25. AUTHORITY TO CONTRACT

25.1 Contractor warrants its right and power to enter into this Contract. If any court or administrative agency determines that NACFD does not have authority to enter into this Contract, NACFD shall not be liable to any third party by reason of such determination or by any reason of this Contract.

ARTICLE 26. FULL AND COMPLETE PERFORMANCE

26.1 The failure of either party to insist at any time on the full and complete performance of the terms or conditions of this Contract to be performed on the part of the other, or to take any action permitted as a result thereof, shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future. The acceptance by either party of the sums less than may be due and owing it at any time shall not be construed as an accord and satisfaction.

26.2 NACFD, or any duly authorized representatives, shall have access during normal business hours to any progress plans, specifications, notes, books, memos, documents, papers, time cards, diaries and records of the Contractor, which are directly pertinent to this Contract, for the purpose of making audits, examination, copies and transcriptions. The Contractor is required to maintain all pertinent records for eight years after the later of final payment or completion of any other pending matters or disputes.

ARTICLE 27. CANCELLATION FOR CONFLICT OF INTEREST

27.1 This Contract is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into and made part of this Contract by reference.

ARTICLE 28. IMMIGRATION LAW COMPLIANCE

28.1 Contractor warrants compliance with all federal immigration laws and regulations relating to employees and warrants its compliance with A.R.S. §23-214(A). (That subsection reads: “After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.)

28.2 A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract.

28.3 Failure to comply with a required audit process to randomly verify the employment records shall be deemed a material breach of the contract.

28.4 NACFD retain the legal right to inspect the papers of any employee who works under the Contract to ensure that each party is complying with the warranty under Paragraph 27.1.

ARTICLE 29. OWNERSHIP OF DOCUMENTS

29.1 All information, data, studies, reports, patents, copyrights, plans, and specifications prepared or obtained by the Contractor for the purpose of performing services under this Contract, shall become the property of NACFD. Further, it is expressly understood that NACFD has exclusive control of all information developed during design and construction. No information, maps, data, studies, reports, patents, copyrights, calculations, specifications, or plans shall be released to any party without the specific written authorization of NACFD. NACFD shall not unreasonably withhold such authorization if the release of such information is necessary for the design or construction of the Project.

29.2 Contractor and NACFD in entering into this Contract have relied upon information provided in the RFP for construction services, and on information provided in the Contractor's proposal/bid in response to said RFP. These documents are hereby incorporated into and made a part of this Contract as if set forth in full herein, to the extent not inconsistent with the provisions of this Contract. Subsequent to submitting its Response to the RFP, Contractor has made a thorough and complete investigation of the Project site and all information furnished by NACFD and does not rely upon any information furnished by NACFD in entering into this Contract but rather is relying upon its own investigation and due diligence.

ARTICLE 30. DISPUTE RESOLUTION

30.1 In the event of any dispute arising between NACFD and Contractor regarding any part of the Contract or the Contract Documents, or the parties' obligations or performance thereunder, either party may institute the dispute resolution procedures set forth herein. The parties shall continue performance of their respective obligations hereunder notwithstanding the existence of a dispute.

30.1.1 Informal Dispute Resolution. Any party may from time to time call a special meeting for the resolution of disputes that would have a material impact on the cost or progress of the Project. Such meeting shall be held at NACFD's offices within 5 working days of written request therefore, which request shall specify in reasonable detail the nature of the dispute. NACFD's

Representative, the Contractor's Designated Representative and any other person who may be affected in any material respect by the resolution of such dispute, shall attend the meeting. Such Representatives shall have authority to settle the dispute and shall attempt in good faith to resolve the dispute.

30.1.2 Mediation. If the dispute has not been resolved within 10 working days after the special meeting has been held, a mediator, mutually acceptable to the parties and experienced in design and construction matters shall be appointed. The parties shall share the cost of the mediator. The mediator shall be given any written statements of the parties and may review the Project site and any relevant documents. The mediator shall call a meeting of the parties within ten (10) working days after its appointment. The meeting shall be attended by NACFD's Representative, the Contractor's Designated Representative, and any other person who may be affected in any material respect by the resolution of such dispute. Such Representatives shall have authority to settle the dispute and shall attempt in good faith to resolve the dispute. During such ten (10) day period, the mediator may meet with the parties separately.

30.1.3 Mediation Minutes. The entire mediation process shall be completed within twenty (20) working days of the date after the initial special meeting is held, unless the parties agree otherwise in writing. If the dispute is settled through the mediation process, the decision will be implemented by written agreement signed by the parties.

30.2 Litigation. If a dispute is not resolved pursuant to the procedures set forth in Paragraph 30.1 above, then the dispute may be submitted to the Arizona Superior Court sitting in Mohave County, or the parties may submit the matter to binding arbitration above if both parties agree to submit the dispute to the binding arbitration process. The prevailing party in any such lawsuit or arbitration brought pursuant to this Paragraph shall be entitled to recover their costs and reasonable attorneys' fees incurred in such action.

ARTICLE 31. REMEDIES

31.1 Either party may pursue any remedies provided by law for the breach of this Contract. No right or remedy is intended to be exclusive of any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Contract.

ARTICLE 32. SEVERABILITY

32.1 Each provision of this Contract stands alone, and any provision of this Contract found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Contract.

ARTICLE 33. ENTIRE AGREEMENT

33.1 This document constitutes the entire agreement between the parties pertaining to the subject matter hereof, and all prior contemporaneous agreements and understandings, oral or written, are

hereby superseded and merged herein. This Contract may be modified, amended, altered, or extended only by a written amendment signed by the parties.

ARTICLE 34. PROVISIONS REQUIRED BY LAW

34.1 Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion or correction.

ARTICLE 35. AUDIT OF CONTRACTOR'S RECORDS

35.1 NACFD shall have the right to audit the records of Contractor in connection with the Project. NACFD or NACFD's Representative shall have access to all records, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with this Paragraph. NACFD or NACFD's Representative shall give Contractor reasonable advance notice of intended audits.

35.2 "Records" shall consist of Contractor's books, records, original estimates, estimating worksheets, correspondence, accounting records, written policies and procedures, subcontract files (including proposals of successful and unsuccessful bidders), change order files (including documentation covering negotiated settlements), and any other supporting evidence necessary to substantiate charges related to this Contract. Such records shall be open to inspection and subject to audit and/or reproduction, during normal working hours, by NACFD or NACFD's Representative, to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims submitted by Contractor or any of its payees pursuant to the execution of this Contract. Such records subject to examination shall also include, but not be limited to, those records necessary to evaluate and verify direct and indirect costs as they may apply to costs associated with this Contract.

35.3 For the purpose of such audits, inspections, examinations, and evaluations, NACFD or NACFD's Representative shall have access to said records from the effective date of this Contract for the duration of the Work and until eight years after the date of final payment by NACFD to Contractor pursuant to this Contract.

IN WITNESS WHEREOF, three (3) identical counterparts of this Agreement, each of which shall for all purposes be deemed original thereof, have been duly executed by the parties hereinabove named, on the day and year first above written.

NACFD:

NORTHERN ARIZONA CONSOLIDATED
FIRE DISTRICT #1

By: _____
Printed Name: _____
Its: _____

Date: _____

CONTRACTOR:
Name of Contractor:

By: _____
Printed Name: _____
Its _____

Date: _____

EXHIBIT A
SCOPE OF WORK

Plans showing scope of work are available to all licensed commercial contractors for purchase at Strytek Engineering at 2428 Ashfork Ave, Kingman, Arizona 86401

EXHIBIT B
PROJECT SCHEDULE

Contract Start Date	_____	, 2019
Commence Construction	_____	, 2019
Construction Substantially Complete	_____	, 2019
Construction Warranty Expires	Seven years after Substantial Completion	